

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: _____**

MARY HAWKEY,

Plaintiff,

COMPLAINT

v.

JURY TRIAL DEMANDED

RIVERVIEW LAW OFFICE,

Defendant.

INTRODUCTION

1. This action arises from Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA" herein), 15 U.S.C. § 1692 *et seq.*
2. The term "consumer" as used in this Complaint means any natural person obligated or allegedly obligated to pay any debt. Section 803(3) of the FDCPA, 15 U.S.C. § 1692a(3).
3. The term "debt" as used in this Complaint means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment. Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5).
4. The term "debt collector" as used in this Complaint means any person who uses any instrumentality of interstate commerce or the mails in any business

the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

JURISDICTION AND VENUE

5. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
6. Venue is proper in this district because the acts and transactions occurred in this district, Plaintiff resides in this district, and Defendant transacts business in this district.

PARTIES

7. Plaintiff Mary Hawkey (hereinafter “Plaintiff”), is a natural person residing in the County of Hennepin, State of Minnesota, and is a “consumer” as that term is defined by Section 803(3) of the FDCPA, 15 U.S.C. § 1692a(3), and/or a person affected by a violation of the FDCPA with standing to bring this claim under Section 803 of the FDCPA, 15 U.S.C. § 1692k(a).
8. Defendant Riverview Law Office, PLLC (hereinafter “Defendant”), is a Minnesota law firm with its principal place of business located at 225 North Benton Drive, Suite 209, Sauk Rapids, MN 56379.
9. Defendant is a “debt collector,” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

FACTUAL SUMMARY

10. Sometime prior to January 2013, Plaintiff incurred a financial obligation that was primarily for personal, family or household purposes, and is therefore a “debt” as that term is defined by Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5), namely medical bills incurred at Fairview Health Services related to a motor vehicle accident.
11. Sometime thereafter, the alleged debt was consigned, placed or otherwise transferred to Defendant for collection.
12. Sometime thereafter, Defendant began a dunning campaign against Plaintiff.
13. Plaintiff retained legal counsel regarding the debt.
14. Defendant was advised that Plaintiff had retained legal counsel.
15. Defendant spoke with Plaintiff’s legal counsel on June 11, 2013 regarding the debt. The parties entered a repayment agreement at that time.
16. The parties’ June 11, 2013 conversation was a “communication” as that term is defined by Section 803 of the FDCPA, 15 U.S.C. § 1692a(2).
17. Defendant sent Plaintiff’s legal counsel a letter, dated June 19, 2013, memorializing the repayment plan for the debt.
18. Defendant’s June 19, 2013 letter was a “communication” as that term is defined by Section 803 of the FDCPA, 15 U.S.C. § 1692a(2).
19. Defendant sent a letter directly to Plaintiff, dated October 17, 2013 demanding payments pursuant to the repayment plan.

20. Defendant's October 17, 2013 letter was a "communication" as that term is defined by Section 803 of the FDCPA, 15 U.S.C. § 1692a(2).
21. Defendant did not contact Plaintiff's legal counsel prior to sending the October 17, 2013 letter to confirm whether Plaintiff was still represented with regard to the debt.
22. At no time was Defendant advised that Plaintiff was no longer represented by legal counsel with regard to the debt.
23. Plaintiff was in fact represented by legal counsel at the time of the October 17, 2013 letter and is still represented by legal counsel regarding the debt.

Violations of The Fair Debt Collection Practices Act

24. By contacting Plaintiff directly when Defendant was aware that Plaintiff was represented by legal counsel, Defendant made a communication prohibited by the FDCPA, violating 15 U.S.C. § 1692c(a)(2).

Respondent Superior Liability

25. The acts and omissions of Defendant, and/or the other debt collectors employed as agents by Defendant who communicated with Plaintiff- further described herein- were committed within the time and space limits of their agency relationship with their principal, Defendant.
26. The acts and omissions by Defendant and/or these other debt collectors were incidental to, or of the same general nature as, the responsibilities these agents were authorized to perform by Defendant in collecting consumer debts.

27. By committing these acts and omissions against Plaintiff, Defendant and these other debt collectors were motivated to benefit their principal, Defendant.
28. Defendant is therefore liable to Plaintiff through the Doctrine of Respondeat Superior for the intentional and negligent acts, errors, and omissions done in violation of federal law by its collection employees, including but not limited to violations of the FDCPA and Minnesota law, in their attempts to collect this debt from Plaintiff.

Summary

29. The above-detailed conduct by Defendant was a violation of numerous and multiple provisions of the FDCPA, including but not limited to the provisions of the FDCPA identified above.
30. Defendant's negligent and/or intentional acts resulted in the violation of numerous provisions of federal law and resulted in actual damages to the Plaintiff.

TRIAL BY JURY

31. Plaintiff is entitled to and hereby respectfully demands a trial by jury. U.S. Const. amend. 7. Fed.R.Civ.P. 38.

CAUSES OF ACTION

**COUNT I
VIOLATIONS OF THE
FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692 et seq.**

32. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
33. The foregoing acts and omissions of Defendant and its agents constitute numerous and multiple violations of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq., with respect to Plaintiff.
34. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3), from Defendant herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

**COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES
ACT
15 U.S.C. § 1692 et seq.**

35. For an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant and for Plaintiff;

36. For an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendant and for Plaintiff; and
37. For an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant and for Plaintiff.

Respectfully submitted,

Dated: April 17, 2014

MARTINEAU, GONKO & VAVRECK, PLLC

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